

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

PATRICIA PORTER KRYDER,)
Plaintiff,)
v.) No. 1:13-cv-00048
JAMES KEMMLER ROGERS and) JURY DEMAND
JENNIFER ROGERS-ETCHEVERRY,)
Defendants.)

JENNIFER ROGERS-ETCHEVERRY, as)
attorney-in-fact for JAMES KEMMLER)
ROGERS, an incapacitated person,)
Counter-Plaintiff,)
v.
PATRICIA PORTER KRYDER)
a/k/a PATRICIA K. GANIER,)
Counter-Defendant.)

ORDER
This motion is
GRANTED and the
pendings on p 3 of this
motion are ADOPTED
S. W. J.
08/14/14
8-15-14

MOTION FOR EXTENSION OF TIME TO FILE DISPOSITIVE MOTIONS,
SUBSTITUTE THE REAL PARTY IN INTEREST FOR THE COUNTER-PLAINTIFF
AND TO CONTINUE TRIAL DATE

Jennifer Rogers-Etcheverry and Jennifer Rogers-Etcheverry, as attorney-in-fact for James Kemmler Rogers, by and through undersigned counsel, hereby move this Court for an extension of time for them to file dispositive motions and to substitute the real party in interest for the Counter-Plaintiff due to the recent death of James Kemmler Rogers and to briefly continue the trial in this matter.

In support of this motion, the undersigned would show that good cause exists for an extension of time and such extension would not unfairly prejudice the Plaintiff/Counter-

Defendant Particia Porter Kryder. An extension is necessary for several reasons. Such reasons include, but are not limited to, the following: 1) Defendants/Counter-Plaintiff filed a Motion for Extension of Time to File Dispositive Motions (Doc. 64) on June 30, 2014 as a result of Plaintiff Kryder not yet filing an Amended Complaint in response to this Court stating in open court during the Motion hearing that took place on June 16, 2014, that Plaintiff Kryder was to amend her Complaint in this matter to better articulate her claims; (2) Plaintiff Kryder finally filed a Motion to Amend Pleadings to Clarify Legal Theory (Doc. 66) on July 25, 2014, and the Motion was granted by this Court on July 28, 2014 (Doc. 67); (3) the Motion (Doc. 66) did not include a copy of Plaintiff Kryder's amended pleading as an exhibit or otherwise, and Plaintiff Kryder has not yet filed her Amended Complaint pursuant to Rule 15 of the Federal Rules of Civil Procedure; (4) due to the not yet filed amended pleading by Kryder, additional pleadings will have to be filed in response to the Amended pleading by Defendants/Counter-Plaintiff; (5) Kryder still has not produced several documents that were requested by the Defendants/Counter-Plaintiff that are relevant to the issues in this lawsuit despite representations by Counsel for Kryder to the Court at the hearing on the Motion to Compel (Doc. 48) that such documents were going to be produced; (6) the Defendants/Counter-Plaintiff should be allowed the opportunity to review all documents produced (or not yet produced) by Kryder that are relevant to the claims made in the Complaint (which is still likely to be amended as granted by this Court, but has not yet been filed by the Plaintiff) prior to the expiration of any deadline to file dispositive motions and (7) due to the recent death on June 11, 2014, of Mr. James Kemmler Rogers, the Defendants/Counter-Plaintiffs need additional time to substitute the proper real party in interest in place of the Counter-Plaintiff.

Furthermore, depending on the nature of the discovery responses, once received, the movants herein might very well need to take the deposition of Kryder with this Court's permission and such will possibly be relevant to a dispositive motion. The deadline to file dispositive motions is premature given the impending amendments to pleadings, the fact that Kryder has not yet produced all relevant documents relating to this dispute and fully answered interrogatories, and that the real party in interest for the Counter-Plaintiff needs to be substituted due to the recent death of Mr. Rogers.

Any extension of time will not unfairly prejudice the Plaintiff/Counter-Defendant. In fact, it is Plaintiff/Counter-Defendant's impending amendment to its pleadings and Plaintiff/Counter-Defendant's failure and refusal to produce relevant documents and fully answer interrogatories that has made the extensions requested herein necessary and warranted under the circumstances.

Wherefore, the Defendants/Counter-Plaintiff request that they be allowed an extension of time, up to and including October 14, 2014, within which to file dispositive motions in this matter, up to and including November 14, 2014, within which to file any response to opposing motions, and up to and including December 1, 2014, within which to file any reply to a response to a dispositive motion. In order to accommodate the Defendants/Counter-Plaintiff's request for an extension of time to file dispositive motions, Defendants/Counter-Plaintiff also respectfully request that this Court continue the trial in this matter to a date in January or February of 2015, along with any pretrial conferences and trial related deadlines.